

Honorable Judge Benjamin Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER,

Plaintiff,

v.

DETECTIVE SHARON KRAUSE, and
SERGEANT MICHAEL DAVIDSON,

Defendants.

No. C11-5424BHS

PLAINTIFF'S MOTION TO
CLARIFY RECORD

Noting date:
January 28, 2014

RELIEF REQUESTED

During Defendant Davidson's cross examination, Plaintiff's counsel attempted to confront Davidson with the statement Shirley Spencer made to Tim Hammond regarding when her relationship with Davidson began. The specific question posed was:

Q: And Tim Hammond testified – I am sure you heard him – that Shirley told him that Ray was in the jail at Clark County when the affair started. Do you remember that?

TT Day 12, p. 120.

Defendants objected on the basis that the question mischaracterized Mr. Hammond's testimony. Plaintiff files this motion seeking an instruction to the jury clarifying the testimony on this crucial point, because in fact Mr. Hammond testified exactly as Plaintiff's counsel represented during Davidson's examination:

Q. When was the relationship started?

A. I believe she indicated while he was in the Clark County Jail.

Q. So while Mr. Spencer was in the Clark County Jail, Shirley Spencer started her relationship with Michael Davidson, is that correct?

A. That's what she indicated.

1 TT Day 9, pp. 187-88.

2 As this Court is aware, the question of when Davidson and Shirley Spencer's
3 relationship started is a matter of critical importance in this case. The jury should not be left
4 with the misleading impression that Shirley Spencer was not accurately impeached on this
5 issue, or that Plaintiff's question to Defendant Davidson was improper.

6 **CONCLUSION**

7 WHEREFORE, Plaintiff therefore asks that the following instruction be submitted to
8 the jury:

9 During the testimony on Friday an objection was posed to the following question
10 asked of Defendant Davidson:

11 And Tim Hammond testified – I am sure you heard him – that Shirley told him
12 that Ray was in the jail at Clark County when the affair started. Do you
remember that?

13 You are hereby instructed that the objection is overruled, and that the question
posed accurately stated Tim Hammond's testimony.

14 RESPECTFULLY SUBMITTED this 27th day of January, 2014.

15 /s/ Kathleen T. Zellner
16 Kathleen T. Zellner & Associates, P.C.
Admitted *pro hac vice*
17 1901 Butterfield Road
Suite 650
18 Downers Grove, Illinois 60515
Phone: (630) 955-1212
19 Fax: (630) 955-1111
kathleen.zellner@gmail.com
20 Attorney for Plaintiffs

/s/ Daniel T. Davies
Daniel T. Davies, WSBA # 41793
Local counsel
David Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101-3045
Phone: (206) 757-8286
Fax: (206) 757-7286
Email: dandavies@dwt.com
Attorney for Plaintiffs

DECLARATION OF SERVICE

I hereby certify that on January 27, 2014, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record as follows:

Guy Bogdanoich Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. P.O. Box 11880 Olympia, WA 98508-1880 Email: gbogdanovich@lldkb.com Attorney for Defendant Sharon Krause	Jeffrey A. O. Freimund Freimund Jackson Tardif & Benedict Garratt, PLLC 711 Capitol Way South, Suite 602 Olympia, WA 98502 Email: jeffF@fjtlaw.com Attorneys for Defendant Michael Davidson
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/s/ Kathleen T. Zellner
Kathleen T. Zellner & Associates, P.C.
Admitted *pro hac vice*
1901 Butterfield Road
Suite 650
Downers Grove, Illinois 60515
Phone: (630) 955-1212
Fax: (630) 955-1111
kathleen.zellner@gmial.com
Attorney for Plaintiffs